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HON. ELI S. SHORTER, OF ALABAMA;

ON THE

CLAIMS OF GEORGIA AND ALABAMA;

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, DECEMBER 17, 1858.

W A S H I N G T O N:
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S P E E C H.

The House having resolved itself into the Committee of the Whole on the state of the Union, and proceeded to the consideration of the bill to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians—

Mr. SHORTER said:

Mr. CHAIRMAN: The facts of the case are fully set forth in the report of the Committee on Indian Affairs. It is not possible for me to discuss, in the short period allowed me, all the points involved in this claim; and I shall therefore confine myself, in the remarks I shall make, to the main points upon which the parties interested in this case depend.

The facts of the case are briefly these—and I would like to gain the ear of the House in these opening remarks, that it may act understandingly when it comes to the final disposition of this case: it appears, by the evidence, that, in the year 1825, a treaty was made by the Government of the United States with the Creek tribe of Indians, whereby they ceded to the United States all of their lands east of the Chattahoochee river. The Creek Indians were then removed west of that river, in the State of Alabama. It was the policy of the Government at that time to persuade these Creek Indians to remove west of the Mississippi. But those Indians, like the Seminoles in Florida, were averse to leaving their old homes and hunting grounds, and removing to the waters of the Arkansas.

In 1832, the Government, still insisting on the removal of these Indians, made another treaty with them while they were residing within the limits of Alabama. By this treaty the Creeks ceded to the Government all their lands east of the Mississippi, saving and excepting reservations made to certain chiefs and heads of families, of three hundred and twenty acres each. By the terms of the treaty, each Indian had the right guaranteed to him to sell his own reservation. What was the object of the Government in giving these reservations in fee simple to the Indians? It was eventually to secure their removal to the

waters of the Arkansas. The Government anticipated that when they had disposed of all their lands, they would be compelled, from necessity, to remove west of the Mississippi river.

In order to carry out this policy, in 1834, the Government had the public lands thus obtained by the treaty of 1832, surveyed and offered at public sale. Citizens of the United States, from Georgia, from South Carolina, and from Florida, emigrated into this new country, under the invitation of the Government, for the purpose of purchasing these lands.

For the first time, then, in the history of the Government, we find the white man and the Indian living together on the same soil, side by side.

Mr. GIDDINGS. I understand the gentleman to say that this is the first time in the history of the Government that the Indian and the white man have resided together upon the same soil. I have resided by the side of Indians, year after year, and I have seen them burning the buildings around me.

Mr. SHORTER. That may all be true; but I say that it was in accordance with the settled policy of the Government to invite within this Indian territory settlers from other States, in order to carry out its purpose of compelling the Indians to remove to the west. Under this invitation the whites went in, purchased, and settled upon those lands. Finding the Indians were their neighbors, owning three hundred and twenty acres of land each, with the right to sell, as a matter of course they purchased from the Indians their reservations.

What was the consequence to the Indians? After selling their land, they spent their money, and, as the report truly states, were soon reduced to a state of vagrancy and starvation. In 1836, a portion of that tribe, after they had squandered the proceeds of the land which they had sold to the whites, rather than starve, commenced plundering and pillaging the community for subsistence. There was, at that time, a small United States fort within that territory called Fort Mitchell. The whites anticipating an outbreak on the

part of a portion of the Creek Indians, petitioned the Government, through the Legislatures of Georgia and Alabama, for protection; but instead of sending additional troops, the Government issued an order to send the troops that were stationed at Fort Mitchell to Florida.

It was under such circumstances as these that the depredations were committed. A portion of the tribe—not the whole tribe, for a large majority of them were opposed to hostilities—commenced burning the houses of our people, stealing their property, and the whole country was soon depopulated. The people had to fly for their lives into the interior of Florida and Georgia. To suppress these hostilities—not on the part of the Creek tribe, as a tribe; but to suppress and intimidate this band of marauding Indians—the United States sent out General Jesup, with a command of United States soldiers. General Jesup states in his letter the condition of the country as he found it. He had not been in the country three months before he succeeded in suppressing all these difficulties and restoring peace and quiet to the community. In order to do this, however, General Jesup ordered the enlistment of a brigade of friendly Creeks, headed by their principal chief. They were enlisted; and this brigade of Indians and the United States troops proper, for upwards of three weeks, subsisted upon the property of citizens of Alabama. The evidence shows conclusively that they subsisted upon property belonging to our citizens, which they impressed. Colonel Hogan, one of the commanding officers there, General Woodward, Major Collins, Charles McLemore, and Major Torrence, all testify that large herds of cattle were seized by the United States troops, under the order of General Jesup. These witnesses were United States officers.

I contend, in the first place, that the Government ought to pay these claims, because they are bound to do it under the provision of the Constitution of the United States, which provides that "*private property shall not be taken for public use without just compensation.*" The question now arises, was the private property of citizens of Alabama taken at that time for the public use? If it was, it is plain that the claimants are entitled to compensation. What does General Jackson say, in his message, in 1836, upon this point. He says he knew the fact that this property was taken for the subsistence of the United States Army. He says:

"On the unexpected breaking out of hostilities in Florida, Alabama, and Georgia, it became necessary, in some cases, to take the property of individuals for public use. Provision should be made by law for indemnifying the owners, and I would also respectfully suggest whether some provision may not be made, consistently with the principles of our Government, for the relief of the sufferers by Indian depredations or by the operations of our own troops."

Now, let us see to what extent private property was taken for the support of your army at that time. We have here in the report the testimony of the officers in that command, and as that is a material point, I will read that testimony, and I do hope the committee will listen to the evidence. It is as follows:

"General Jesup then adds, 'that Colonel Hogan's, Major Collins's, and Major Torrence's statements are substantially correct, and General Woodward's is correct, with the exception of his remarks in regard to myself.' And concludes with the remark: 'Whether the property lost can be paid for or not by the public, I have no hesitation in de-

claring that much of it might have been saved by a prompt and determined movement of the troops early in June.'

"Colonel Hogan states in his letter of September 18, 1837: 'Of the cattle that were killed for the subsistence of the Indian forces under my command, no marks or numbers were taken. Indeed, such a course was impracticable. I was ordered by General Jesup to *subsist the force in the best manner I could*, and I had forage parties out every day hunting up corn and fodder and beef. As soon as the Indians would drive up a gang of cows, calves, or oxen, before I was aware of their being in any part of my camp, which was very extensive, having from thirteen hundred to fifteen hundred Indians scattered all over the hills about the Big Springs, those Indians who were most in want of provisions would commence shooting them down. In this way an immense number of cattle were destroyed, and a great many more than were required for the actual subsistence of the whole army. To prevent a general destruction of cattle was utterly impossible, and equally so to obtain a list of marks and brands.'

"General Woodward says: 'Cattle were killed and made use of both by whites and Indians, though it is true that many more were killed than were really necessary for the use of the troops. This was done by order of General Jesup. There was much other property taken that belonged to the whites, such as mules, horses, corn, fodder, and many things too tedious to mention. As to household furniture, it appeared not to be an object with the friendly or hostile Indians, for it was scattered over the woods in every direction, sometimes burned, and at others torn up and broken to pieces.'

"Major Collins testifies that he served with the regiment of friendly Indians under Jim Boy from the time they took up arms until they were discharged from the service of the United States. That they 'had no rations supplied by the Government until a surrender was made; that they drew a little provision which was given them to get it out of the wagons to enable them to move quicker, as they intended moving to Fort Mitchell, where stores were supplied for the subsistence of the army. All former supplies we had were such as were left by the unfortunate settlers; of this the Indians felt authorized to use, and did so freely wherever they could find any. The Indians said they were to have all the property they could find, according to the proposition made to them by the commander-in-chief, General Jesup, and was acceded to by him, it being their mode of warfare. They accordingly continued to kill a great many cattle, more than was actually necessary for the subsistence of the whole army, which they said they killed to starve the hostile. They also carried off mules, horses, and other things of value which originally belonged to the white settlers.'

"Charles McLemore testifies 'that he was in service and commanded for some time a large force of friendly Indians, and that the Indians did take and use everything they could get hold of; stock of all description, corn, fodder, bacon, and a large quantity of household furniture. The Indians who were friendly considered themselves entitled to all the plunder they could find,' &c.

"John B. Strange states that he was with Opoth-le-yoholo and Jim Boy in every expedition, and is able to say 'that nothing like stock or plunder of any kind escaped them. True it was they drew some rations; but every bushel of corn and every stack of fodder on any plantation through which we passed was either carried off by them or destroyed, to prevent, as they said, their falling into the hands of the hostiles.' At the same time, a great many cattle were killed; in fact, all that were seen; and a number of horses and mules were carried off by them, and all belonging to the unfortunate white settlers, which the Indians considered as their own property when taken.'

"Major Torrence testifies: 'In addition to the stock destroyed by the friendly Indians, they took all the corn they found, and turned their horses on the green corn and oats.' Again: 'Wherever we marched we saw traces of mischief—houses and fences burned, cattle and hogs shot. At Neah Mieos's and Neah Muthlas's camps we found hundreds of dollars of property of almost every description, which was wholly lost to the original owners.'

I have had the testimony of the officers in command read in order to establish, beyond all doubt, the proposition that property of the citizens of Alabama was taken by the United States for public use without just compensation. It is therefore undeniably true that a large amount of money is due to these people by the Government for provisions taken for the use of the army. What was the amount of the force employed by the Govern-

ment at that time; and who drew their whole subsistence by using the property of the people? General Jesup himself states in his letter, which is now before me, the number of troops he had there. He says that he had seven hundred and fifty United States troops, and a brigade of Indian warriors to the number of one thousand five hundred, amounting in all to two thousand two hundred and fifty men. Well, sir, having established the proposition that the property of private citizens was taken for the public use without compensation, we come now to consider the action of Congress to ascertain what it did in response to the message of General Jackson, in 1836, calling its attention to these losses, and recommending an appropriation to cover their payment. Congress passed an act appointing commissioners to visit Alabama and Georgia to ascertain the facts of the case, and the extent of the losses. Their report is found in Executive Document, volume 6, of the second session of the Twenty-Fifth Congress. Let us refer to that report one moment. The commissioners appointed by the Government assembled at Columbus, Georgia, on the immediate border of the Creek territory. The people, by invitation, came before them. The commissioners established their own rules of evidence. It was an *ex parte* proceeding on the part of the Government, represented by the commissioners. Here is their report, giving the names of each claimant, the amount of his losses as claimed by himself, and in another column, the amount recommended by these commissioners to be paid by Congress.

Well, sir, on the examination of this report, the House will perceive that the total amount claimed by the citizens for losses, was \$1,257,407. What amount did the commissioners recommend to be paid? They cut down the claims, and only allowed \$349,120. Why this great difference between the amount claimed by the citizens and the amount recommended to be paid by the United States commissioners? And here, I will say, for the information of the committee, that the object of this bill is to provide only for the payment of the amount recommended by the commissioners.

Mr. LEITER. I wish to call the gentleman's attention, and that of the committee, to this point: whether the whole or a part of the sum recommended by the commissioners has not been paid?

Mr. SHORTER. I am coming to that point in a moment.

Mr. LOVEJOY. Do I understand the gentleman to say that the bill only provides for the payment of the amount recommended in the report?

Mr. SHORTER. That is all. I was going to show that, by some error in drawing up the bill, it does not conform with the report of the committee; but I have prepared a proviso which I intend to offer, so as to make the bill conform to the report. Our object is to secure to these citizens of Georgia and Alabama, payment only of the amounts recommended by the commissioners. In justice, however, to the citizens of Alabama and Georgia who preferred this claim, I wish to explain why it is that, while they claimed \$1,547,000, the commissioners only recommended payment of \$349,000.

The report of the commissioners, if members would take the trouble to examine it, will explain this matter. They assert most positively that in no single instance did they make an allowance

for what they call "consequential damages." What do they mean by consequential damages? It was in the spring of the year of 1836, that these difficulties occurred. The settlers had planted their crops; their corn, and their cotton, and their wheat were up and growing. All their crops were destroyed. But because it was not property *in esse*, the commissioners said that the people had no right to compensation for the loss of their growing crops, which they could not secure, because they were compelled to fly from the country and leave their homes. In no single instance was a dollar allowed them for the growing crops which they lost that year. That is what the commissioners mean by consequential damages.

Our citizens thought that it was the duty of the Government to have protected them in the peaceful enjoyment of the lands which the Government itself had sold them; and as the Government had failed to do that, they believed they had a right to demand from the Government—and I think so too—the payment of full indemnity for their losses, actual and consequential.

Mr. NICHOLS. Will the gentleman allow me to ask him a question?

Mr. SHORTER. With a great deal of pleasure.

Mr. NICHOLS. I find in the second section of this bill these words:

"That the Secretary of War be, and he is hereby authorized, *without regard to existing rules and requirements*"—

Mr. SHORTER. I understand the question which the gentleman is going to ask me, and I will answer it right here.

Mr. NICHOLS. I want that language explained, because I cannot vote for the bill without explanation.

Mr. SHORTER. I am glad the gentleman has called my attention to that point, because it relates to the argument I am just now advancing. The commissioners organized their own court. Their report shows that they had considerable difficulty in establishing the rules of evidence by which they would be governed; but they finally made their own rules of evidence. The testimony was taken down in writing. The claimant himself was sworn; his neighbors were brought in, and they too were also sworn to prove his claim. All this evidence, taken by the commissioners, is now on file in the War Department. Many of the witnesses are dead, and others are gone to parts unknown; and the object of that provision in the bill is simply to authorize the Secretary of War to accept the evidence now on file in the War Department—evidence taken down *ex parte* on the part of the United States—in the adjudication of the claims.

Mr. NICHOLS. One other question. Does it exclude the rules of the Departments, and the ordinary rules of evidence required to substantiate claims against the Government?

Mr. SHORTER. No, sir; we do not understand it in that light at all. The object of the bill is simply to ask the Secretary of War to act upon the evidence—let it be worth what it may—that is now on file in the Department. Many of these claimants are now dead. Their widows and orphans, many of whom were reduced to poverty at that time, are now anxiously waiting to hear of your action on this bill. And if you tell them to go and hunt up the absent witnesses, and to call the husbands of those widows from the graves to es-

tablish these claims, it will be utterly impossible for them to obtain relief under the ordinary rules of the Department. That is the reason for that provision in the bill; and I hope it is satisfactory to my friend from Ohio. The gentleman, however, can fix the phraseology of the bill on that point to suit himself.

Mr. CURTIS. I would ask the gentleman if he intends that the Secretary of War shall go behind the finding of the commissioners?

Mr. SHORTER. No, sir. We want him to stand upon the finding of the commissioners.

Mr. CURTIS. Then what do you want the testimony for?

Mr. SHORTER. For the reason that we want the Secretary to determine the cases on the written evidence now on file in his Department, because the witnesses who testified before the commissioners are many of them dead, or scattered throughout the country. But the evidence sworn to before the commissioners is now on file in the War Department, and we want the Secretary to act upon that.

Mr. CURTIS. The gentleman does not understand my point. What is the use of testimony when you do not intend him to go behind the finding of the commissioners?

Mr. SHORTER. Well, I shall be perfectly satisfied if you will pay the parties the amounts recommended by the commissioners.

Mr. CURTIS. I am certainly opposed to going behind the findings of the commissioners.

Mr. SHORTER. I have no objection in the world to your passing a law requiring the Secretary of War to pay these parties the amounts recommended as due to them by the commissioners. That is all we are asking.

Mr. KILGORE. I wish to ask the gentleman whether the bill is not intended to cover the entire claims admitted by the commissioners?

Mr. SHORTER. No, not the entire claims. The entire claims amount to over a million dollars.

Mr. KILGORE. The bill, as I understand it, requires the Secretary of War to take the proof that is now on file, and that was taken before the commissioners, and by that to determine the amount to be allowed. The commissioners report the entire evidence; but, according to the affidavit or evidence of the claimants themselves, they rejected something more than three fourths of the amount of claims. Yet those rejected claims would be embraced under this bill, if I understand its provisions.

Mr. SHORTER. Yes, sir; but I have drawn up a proviso which I intend to offer, limiting the payments to the amount recommended as due by the commissioners. I hope the committee understand that point.

Mr. LEITER. I will state that the Committee on Indian Affairs agreed to that unanimously.

Mr. SHORTER. Yes, sir; the committee unanimously agreed to it.

Mr. HOUSTON. I desire to see if I understand my colleague correctly. I understand that he proposes, not that the evidence which is on file in the War Department shall be conclusive of the correctness of the charges and amounts, but that that evidence shall be taken for what it is worth, in the adjustment of the accounts.

Mr. SHORTER. That is all.

Mr. HOUSTON. I understand my colleague

to state also that this evidence was taken by the commissioners at their own option.

Mr. SHORTER. Yes, sir.

Mr. HOUSTON. And that it is not evidence that it was brought by the claimants of the property themselves?

Mr. SHORTER. My colleague understood me correctly.

Mr. GIDDINGS. I wish to inquire of the gentleman from Alabama whether the claims in schedule "A" were not paid at the time, or soon after, under the law of 1816?

Mr. SHORTER. The claims on that schedule are not included in this bill.

Mr. GIDDINGS. I know that; but I wish to inquire if those claims were paid?

Mr. SHORTER. They were; there were only about seventeen names included in that schedule; and if I remember correctly, their claims were for articles of clothing and other things taken from some merchants for the use of the army.

Mr. GIDDINGS. If the gentleman will permit me, I desire to ask him one more question. Is not that exactly the same rule on which all claimants for losses sustained in time of war have been compensated by this Government, since 1816?

Mr. SHORTER. I do not understand the bearing of the gentleman's question.

Mr. GIDDINGS. I merely ask, whether the rule, under the law of 1816, is not the measure by which we have paid all claims of this character, from that day to this?

Mr. SHORTER. Well, in this case, the evidence was different, and the testimony here explains all that. There were some seventeen claimants under schedule "A." They were merchants whose goods had been taken by the United States troops for the use of the army; and written memoranda, signed by the officers, of the precise goods which they took, were given to the parties at the time, and the claims of those parties were adjusted under the law to which the gentleman from Ohio refers. But in these other cases, the officers all testified, as the gentleman from Ohio would have learned if he had listened to the reading by the Clerk, that it was utterly impossible to keep an account of the property taken by the United States troops, and by the friendly Indians, for the support of the army. It was impossible to do it. The parties whose property was impressed had no way of identifying it, so that it could be paid for as the parties embraced in schedule "A" were paid. And all that we ask, and all that we contemplate by this bill, is, that the Government shall pay to the citizens of Georgia and Alabama the amounts recommended as due by the commissioners, in their report.

Now, what has been the objection made to this bill? It is asked why a claim of this character has been so long before Congress? The answer is plain. If you will examine your record, you will find that the Legislatures of Georgia and Alabama have petitioned and petitioned, over and over again, for action by Congress on these claims. You will find that the United States Senate passed a bill for the payment of this amount on two several occasions, and that an adverse report never has been made, in that body, to the payment of the claims. But we have never had an opportunity to be heard before this House. This is the first time since 1836, when President

Jackson recommended Congress to pay this debt, that we have ever obtained a hearing before this House.

Well, the gentleman inquires, why we have never had a hearing? Why have not a great many other worthy claimants, who have been here by petition for the last twenty years, had a hearing? It is a burning shame that they have not had a hearing before Congress. This House is to blame for it; and that is my answer to the gentleman.

But it has been again said, that these claims ought not to be paid because the depredations were committed in time of war, and that the Government is not bound to indemnify its citizens for losses sustained by the enemy in actual war. I grant the general proposition to be a correct one, because the establishment of any other rule would bankrupt the Government. But, sir, was this a war? A war with whom? With the Creek tribe of Indians? Why, the chiefs of that tribe, with a large number of friendly Indians, were enlisted in the service of the United States, in endeavoring to put down the hostiles. War? Was there ever a declaration of war? None. Was there any treaty of peace? None. The chiefs of that tribe sent a protest to the Senate three years ago, against this idea that they had been at war with the United States in 1836. I have read that protest. I take it for granted that if there was a war, it was a war with the Creek tribe of Indians. The United States could not be at war with a small subdivision of the tribe. But we have here testimony of the highest character showing whether it was a war or not; and what is that? I hold in my hand a letter from General Jesup, the highest officer in command in that territory at that time. In that letter, General Jesup says:

"But a small portion of the Indians were at that time hostile."

Again :

"From the best information I could obtain there were about one thousand warriors in the different hostile camps, but not more than forty or fifty had at any time been concerned in burning houses or committing murders, and not over one hundred and fifty warriors had ever engaged in active hostilities."

Well now, Mr. Chairman, is it fair, is it right, when the citizens of Alabama and Georgia come here to urge their just claims against the Government, to be met by the argument that the losses were sustained in time of war, when the commanding officer tells you that the tribe of Creek Indians were friendly to the United States, and a large portion of them enlisted for the suppression of the depredations of those who were hostile? and that there were not, from first to last, more than one hundred and fifty Indians engaged in hostilities. And what do the commissioners say? They say that "after diligent inquiry they find it very difficult to determine what portion of the Creek tribe had been engaged in hostilities." But I care nothing for what the commissioners say on this point. Here is the testimony of General Jesup, signed in his own handwriting, which must put to rest forever the proposition that this was a war with the Creek tribe of Indians.

Mr. CURTIS. If the gentleman will permit me, the Committee on Military Affairs have adopted a rule always to pay for articles which have been taken by our own Army for military or other pur-

poses, but not to pay for the depredations committed by a predatory band of Indians in the havoc of war. I wish to ask the gentleman from Alabama if this claim is for depredations committed by a band of Indians? If so, it should be disregarded by this House. I am willing to pay for whatever property has been taken by our Army, but not for depredations committed by bands of Indians. That is the rule adopted by the Committee on Military Affairs.

Mr. SHORTER. I understand the proposition of the gentleman from Iowa, and as a general rule it is correct, with the qualification that where the depredations committed by Indians are not to be paid for by the United States, they must have been committed by a tribe at war with the United States. But the act of March 3, 1837, settles this matter in the following proviso:

"Provided, Nothing hereinbefore contained shall be so construed as to subject the United States to pay for depredations not provided for by the act of April 9, 1816, and the acts amendatory thereto, nor by acts regulating the intercourse between the Indian tribes and the United States."

It is plain that Congress knew what that intercourse act was. They knew perfectly well that if the depredations committed by the Creek Indians east of the Mississippi river came within the spirit of the Indian intercourse act, the United States were liable. What is the Indian intercourse act? What are its provisions? It provides that when a portion of a tribe of Indians at peace with the United States, comes into the white settlements and commits depredations, the Government is liable, if the provisions of the act are complied with by the sufferers, and it deducts the amount from the annuities which are due to said tribe. Gentlemen will not say that our losses were sustained in the "havoc of war" when the depredations were committed by a small band of vagrant Indians while the great body of the tribe remained at peace with the Government. The Indian intercourse act provides that such depredations shall be paid out of the United States Treasury. And by the act of 1836, passed by Congress in conformity to the recommendation of President Jackson, Congress pledged itself to pay all these losses, if they fall within the principles of the Indian intercourse act. Did they fall within the principles of that act? Certainly they did; the commanding officer testifies that not over one hundred and fifty of the Creek tribe were engaged in these depredations, and the records of the Government show that some two thousand of that tribe enlisted under our own flag to suppress these hostilities. The gentleman's proposition is wrong; we have a law upon this subject, known as this Indian intercourse law. By this very act of Congress the Government is pledged to pay us, not only for the property which the United States troops took to support themselves upon, not only for the property impressed for the maintenance of your army, but also for the property destroyed by this band of depredating Indians.

A gentleman asks why did not the people of Georgia and Alabama go before the Indian agent at that time? There was no Indian agent. Immediately after the losses were sustained, the Legislature of Alabama assembled and petitioned Congress to indemnify the citizens for their losses; and Congress, in the absence of an Indian agent, appointed these commissioners, Pease and Smith, who went out there.

Mr. PURVIANCE. Why was it that, under the seventeenth section of the act of 1834, the course indicated by that act was not pursued?

Mr. SHORTER. I have not the act before me, and therefore I cannot answer advisedly.

Mr. WOODSON. There was no Indian agent.

Mr. PURVIANCE. In the absence of an Indian agent, was no complaint made to the Commissioner of Indian Affairs, and did he pursue the course prescribed by the seventeenth section of the act of 1834; did he make a report, and if so, what was it?

Mr. SHORTER. I know nothing about the action of the Commissioner of Indian Affairs at that time. I know, by General Jesup's letter, that there were not more than one hundred and fifty Creeks engaged, at any one time, in those depredations; and the Legislature memorialized Congress to pay those claims; General Jackson recommended them to the favorable consideration of this body; and Congress appointed those commissioners to go there. We have their report, and now we ask that they may be paid. It is the fault of the Government that we have been delayed thus long. We do not ask even for interest on the amount allowed by the commissioners. We do not ask what is justly due us. We only ask pay for the property taken and destroyed by the United States troops, by the friendly Indians under our flag, and by a small band of hostile Creeks.

Now it appears that, out of \$349,120 recommended by these commissioners to be paid to the citizens of Georgia and Alabama, one claim of \$20,000 was due to the firm of Henry W. Jernigan & Co., merchants in the town of Roanoke. It was assigned to the Central Bank of the State of Georgia. The marauding Indians crossed the Chattahoochee river and destroyed the goods belonging to that firm. It was transferred, as I said, and when the State of Georgia came here as a creditor of this Government and asked for the payment of \$20,000 of these items, recommended by the commissioners to be paid, you paid it; but these claimants, scattered all over the country; many of them, to-day, barely able to obtain a subsistence; many of them having lost their husbands and fathers, who were, at that time, shot down in the night by a band of hostile Indians; have asked you, ever since 1837, to pay them the

small amounts due them respectively; but Congress has, thus far, turned a deaf ear to their supplications. You pay Georgia the amount due to Jernigan & Co., but when a citizen of my State, claiming only \$150, or other small amount, for household furniture destroyed, for corn taken by your troops from their cribs, or for bacon taken from their smoke-houses to feed your army and impressed by the authority of the Government, asks you to pay him, you spurn him from the Halls of Congress. Is it just and fair to treat these parties thus?

I care not what may be the language of the bill that provides for their payment. I should prefer a bill simply providing that the claims shall be settled according to the report of the commissioners. This matter has been fully investigated and discussed at length before the Committee on Indian Affairs. Some gentlemen upon that committee had a prejudice against the claim until they came to understand it in all its bearings; and this report now stands before the House indorsed unanimously by that committee; and I trust that Congress will now act in such a manner that justice, though long delayed, may at last be done to the citizens of my State, who are so deeply interested in this bill.

NOTE.—Mr. WASHBURN, Black Republican from Wisconsin, replied to Mr. SHORTER. At the close of Mr. WASHBURN's speech, the following incident occurred:

Mr. SHORTER. I desire the attention of the gentleman from Wisconsin, who addressed the House last. I understood him, while addressing the House, to say that the people of Alabama had fled from their homes in fear of the Indians, thereby losing their property, and that they now come before Congress to "ask pay for their bravery!" Did I understand the gentleman correctly?

Mr. WASHBURN, of Wisconsin. Very likely I may have used that language. Perhaps I should have added, and for their losses, too.

Mr. SHORTER. So far as the declaration that they come here asking "pay for their bravery" is concerned, I pronounce it false and slanderous. [Cries of "Order!," "Order!"]

Mr. WASHBURN, of Wisconsin. I have no doubt that the citizens of Alabama are brave; as has been illustrated by their Representative here to-day.

Mr. SHORTER. I can say nothing more to the member from Wisconsin.

The CHAIRMAN. The Chair cannot permit gentlemen to indulge in personalities. If he had foreseen what would be the purport of the remarks of the gentleman from Alabama, he would have at once called him to order.